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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,288	12/29/2000	John R. Stefanik	00059	8905
38516	7590	03/05/2008		
SCOTT P. ZIMMERMAN, PLLC PO BOX 3822 CARY, NC 27519			EXAMINER SHANG, ANNAN Q	
			ART UNIT 2623	PAPER NUMBER
			MAIL DATE 03/05/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/751,288

Applicant(s)

STEFANIK, JOHN R.

Examiner

ANNAN Q. SHANG

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– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 9-15 and 20-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9-15 and 20-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 12/21/07 have been fully considered but they are not persuasive.

With respect to claims 20-25, rejected under 35 U.S.C. 102(e) as being anticipated by **Allport (6,104,334)** and the rejection of claims 9-15 and 26-28, rejected under 35 U.S.C. 103(a) as being unpatentable over **Allport (6,104,334)** and in view of **Feinleib et al (6,346,891)**, Applicant amends claims discusses the claimed invention and the prior arts of record and further argues that the prior arts of record do not teach the claim limitations, i.e., that Allport "...is silent to 'receiving data from an electronic program guide..." that "...fails to even mention 'an electronic program guide..."(see page 6+ of Applicant's Remarks).

In response, Examiner notes Applicant's arguments, however, the Examiner disagrees. **Allport** discloses in figures 1-18 a portable internet-enable controller and information browser for consumer devices, a remote control device (RC-10). Allport teaches that RC-10 receives TV schedules (EPG) and loads or updates new titled-based descriptions (e.g., TV schedules, etc.) Furthermore the display of figs.5 and 6, shows a TV schedule including the sources of the TV programs. Allport further teaches that RC-10 alerts the user or the consumer updates of event, using different visual appearance on the display to inform the user of occurrence of scheduled events (figs.5, 6, col.10, lines 31-38, col.13, line 19-col.14, line 25, col.18, lines 35-38, col.21, lines 3-17, line 61-col.22, line 9 and col.25, lines 7-24). Hence Applicant's arguments are not

persuasive the 102(e) rejection of claim 20-25 is proper, meets all the claim limitations as discussed below.

With respect to the 103(a) rejection, Examiner disagrees with Applicant that Allport teaches away from the claimed invention and furthermore the combination is not proper, that "...thus cannot support a prima facie case for obviousness." As discussed above and in the office action below, Allport teaches all the claim limitations, but silent as to motion detector to detect motions and respond to the detected motion. However, in the same field of endeavor **Feinleib** discloses an RC system with motion sensor to detect motions and initiate a startup phase of the RC before a user actually presses a key (abstract, figs. 1-3, col.1, line 64-col.2, line 28, line 40-col.3, line 38 and line 66-col.4, line 1+). Hence the rejection is proper, meets all the claims limitations and appropriate motivation was given, as discussed below. Examiner further maintains that, the test for obviousness is not whether the features of a secondary reference may be bodily incorporate into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. In this case all the references are in the same field of endeavor as such combining the teaching of Feinleib with Allport would be within the knowledge of one of ordinary skill in the art. Furthermore it appears Applicant's arguments are directed against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of

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references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In view of the above, the rejection is proper and maintained as discussed below.

**This Office Action is made FINAL.**

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 20-25 are rejected under 35 U.S.C. 102(e) as being anticipated by **Allport (6,104,334)**.

As to claim 23-24, **Allport** discloses in figures 1-18 a portable internet-enable controller and information browser for consumer devices and further discloses a remote control device (10), comprising:

A processor (fig.18, CPU-605 and col.26, line 61-col.27, line 17);

A remote control (RC) receiver (IR receiver(s)) in communication with the RC receiver is for receiving data from an electronic program guide, where the data indicates

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the occurrence of scheduled event (col.10, lines 27-38, col.13, line 19-col.14, line 25 and col.18, lines 23-38, col.21, lines 3-17, line 61-col.22, line 9 and col.25, lines 7-24).

An input device (transmitter/receivers interconnected to 630 that enables various inputs, 635, 640, 645, 650, 655, 660, etc.,) in communication with the processor (fig.18, col.26, line 61-col.27, line 17);

A data storage area (DRAM 615, SRAM 620, etc.,) in communication with the processor; and

An output device (transmitter/receivers interconnected to 630 that enables various outputs, LCD Display 665, Speaker, etc.,) in communication with the processor, where after the processor receives data from the remote control receiver, the processor retrieves instructions from the data storage area, interprets the data based upon the retrieved instructions and controls the output device to produce a customized alert associated with the scheduled event, where the instructions enable the processor, in conjunction with the output device, to generate one of a plurality of different alerts (col.10, lines 27-38, col.13, line 19-col.14, line 25 and col.18, lines 23-38), note the various visual alerts for updates of schedule events.

As to claim 20, Allport further discloses where the customized alert includes a plurality of noises, where the plurality of noises, vary in pitch (col.13, line 19-col.14, line 25 and col.27, line 62-col.28, line 22).

As to claims 21-22, Allport further discloses where the RC include TV programs starting times (col.13, line 47-col.14, line 25 and col.18, lines 23-38) and includes a smart card reader/writer in communication the processor, which concerns a user

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profiles, favorite channel, user internet profile, etc., (col.8, lines 30-57, col.9, line 6-20, col.21, lines 18-58 and col.28, line 51-col.29, line 1+).

As to claim 25, Allport further discloses where the processor detects activation of the input device and, responsive thereto, the processor turns off the customized alerts (col.13, line 19-col.14, line 25, col.15, lines 5-41 and col.18, lines 23-38).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 9-15 and 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Allport (6,104,334)** and in view of **Feinleib et al (6,346,891)**.

As to claims 26-27, **Allport** discloses in figures 1-18 a portable internet-enable controller and information browser for consumer devices and further discloses a system, comprising:

A remote control device (10), including:

A processor (fig.18, CPU-605 and col.26, line 61-col.27, line 17);

A remote control (RC) receiver (IR receiver(s)) in communication with the RC receiver is for receiving data from an electronic program guide, where the data indicates the occurrence of scheduled event (col.10, lines 27-38, col.13, line 19-col.14, line 25 and col.18, lines 23-38);

An input device (transmitter/receivers interconnected to 630 that enables various inputs, 635, 640, 645, 650, 655, 660, etc.,) in communication with the processor (fig.18, col.26, line 61-col.27, line 17);

A light source in communication with the processor (col.3, lines 5-20 and col.27, lines 33-61)

A data storage area (DRAM 615, SRAM 620, etc.,) in communication with the processor; and

An output device (transmitter/receivers interconnected to 630 that enables various outputs, LCD Display 665, Speaker, etc.,) in communication with the processor, where after the processor receives data from the remote control receiver, the processor retrieves instructions from the data storage area, interprets the data based upon the retrieved instructions and controls the output device to produce a customized alert associated with the scheduled event, where the instructions enable the processor, in conjunction with the output device, to generate one of a plurality of different alerts (col.10, lines 27-38, col.13, line 19-col.14, line 25 and col.18, lines 23-38), note the various visual alerts for updates of schedule events.

Allport teaches illuminating portions of the LCD display of the RC, but silent to a motion detector to detect motions and respond to the detected motion.

However, Feinleib discloses an RC system with motion sensor to detect motions and initiate a startup phase of the RC before a user actually presses a key (abstract, figs. 1-3, col.1, line 64-col.2, line 28, line 40-col.3, line 38 and line 66-col.4, line 1+).



Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Feinleib into the system of Allport to enable the detection of motions and prepare the RC in advance for other operations before the user presses a key to activate other function of the RC.

Claim 9 is met as previously discussed with respect to claim 21.

Claim 11 is met as previously discussed with respect to claim 26.

Claims 12-15 are met as previously discussed with respect to claims 21-22.

As to claim 28, **Allport** discloses in figures 1-18 a portable internet-enable controller and information browser for consumer devices and further discloses a system, comprising:

A remote control device (10), including:

A processor (fig.18, CPU-605 and col.26, line 61-col.27, line 17);

A remote control (RC) receiver (IR receiver(s)) in communication with the RC receiver is for receiving data from an electronic program guide, where the data indicates the occurrence of scheduled event (col.10, lines 27-38, col.13, line 19-col.14, line 25 and col.18, lines 23-38);

An input device (transmitter/receivers interconnected to 630 that enables various inputs, 635, 640, 645, 650, 655, 660, etc.,) in communication with the processor (fig.18, col.26, line 61-col.27, line 17);

A light source in communication with the processor (col.3, lines 5-20 and col.27, lines 33-61)

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A data storage area (DRAM 615, SRAM 620, etc.,) in communication with the processor; and

An output device (transmitter/receivers interconnected to 630 that enables various outputs, LCD Display 665, Speaker, etc.,) in communication with the processor, where after the processor receives data from the remote control receiver, the processor retrieves instructions from the data storage area, interprets the data based upon the retrieved instructions and controls the output device to produce a customized alert associated with the scheduled event, where the instructions enable the processor, in conjunction with the output device, to generate one of a plurality of different alerts (col.10, lines 27-38, col.13, line 19-col.14, line 25 and col.18, lines 23-38) and where the processor detects activation of the input device and, responsive thereto, the processor turns off the customized alerts (col.13, line 19-col.14, line 25, col.15, lines 5-41 and col.18, lines 23-38).

Allport teaches illuminating portions of the LCD display of the RC, but silent to a motion detector to detect motions and respond to the detected motion.

However, **Feinleib** discloses an RC system with motion sensor to detect motions and initiate a startup phase of the RC before a user actually presses a key (abstract, figs. 1-3, col.1, line 64-col.2, line 28, line 40-col.3, line 38 and line 66-col.4, line 1+).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Feinleib into the system of Allport to enable the detection of motions and prepare the RC in advance for other operations before the user presses a key to activate other function of the RC.

**Conclusion**

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

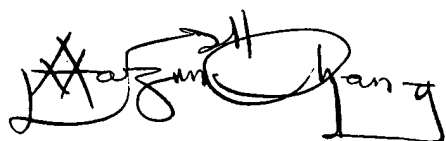
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Annan Q. Shang** whose telephone number is **571-272-7355**. The examiner can normally be reached on **700am-400pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Christopher S. Kelley** can be reached on **571-272-7331**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the **Electronic Business Center (EBC) at 866-217-9197 (toll-free)**. If you would like assistance from a **USPTO Customer Service Representative** or access to the automated information system, call **800-786-9199 (IN USA OR CANADA) or 571-272-1000**.

A handwritten signature in black ink, appearing to read 'Annan Q. Shang', with a stylized flourish at the end.**Annan Q. Shang**